

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

LINDA R. PRUITT

PLAINTIFF

v.

CIVIL NO. 06-3012

JO ANNE B. BARNHART, Commissioner
Social Security Administration

DEFENDANT

MEMORANDUM OPINION

Linda Pruitt ("plaintiff") brings this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of a decision of the Commissioner of the Social Security Administration (Commissioner) denying her applications for disability insurance benefits (DIB) and supplemental security income ("SSI") under the provisions of Titles II and XVI of the Social Security Act. (Doc. # 1). The defendant filed an answer to plaintiff's action on July 25, 2006, asserting that the findings of the Commissioner were supported by substantial evidence and were conclusive. (Doc. # 7).

On November 3, 2006, the Commissioner, having changed positions, filed a motion requesting that plaintiff's case be remanded pursuant to "sentence four" of section 405(g) in order to conduct further administrative proceedings. (Doc. # 10). The defendant states that upon remand, the ALJ will be instructed to re-evaluate plaintiff's mental impairments and to seek medical expert testimony for that purpose.

The exclusive methods by which a district court may remand a social security case to the Commissioner are set forth in "sentence four" and "sentence six" of 42 U.S.C. § 405(g). A remand pursuant to "sentence six" is limited to two situations: where the Commissioner requests a remand before answering the complaint, or where the court orders the Commissioner to consider new,

material evidence that was for good cause not presented before the agency. The Fourth sentence of the statute provides that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." 42 U.S.C. § 405(g); *Shalala v. Schaefer*, 509 U.S. 292, 296, 113 S.Ct. 2625 (1993).

Here, we find remand for the purpose of the ALJ to further evaluate the evidence as addressed above, appropriate.

Based on the foregoing, we hereby grant the Commissioner's motion to remand and remand the case to the Commissioner for further administrative action pursuant to "sentence four" of section 405(g).

DATED this 6th day of November 2006.

/s/ Beverly Stites Jones
HON. BEVERLY STITES JONES
UNITED STATES MAGISTRATE JUDGE